

### **REMARKS**

The pending amendments and the following remarks are submitted as a full and complete response to the Office Action issued on March 13, 2006. Claims 34-37 and 39-40 have been amended. Claim 38 has been cancelled. Claims 42-43 have been added. No new matter has been introduced by the new claims or the amendments. Claims 34-37 and 39-43 are pending.

Applicant respectfully requests the entry of the claim amendments and favorable reconsideration of the application.

#### **Claim rejections – 35 USC §112, second paragraph**

Claims 34-41 have been rejected as being indefinite under 35 USC 112, second paragraph for failing to “particularly point out and distinctly claim the subject matter.” Claim 38 has been cancelled in favor of the new claims 42 and 43.

Claim 34 was rejected as vague and indefinite for using the abbreviated term “CVT-E002.” Claim 34 has been amended to recite the “ginseng fraction CVT-E002.” Applicant submits that claim 34 as amended is not vague or indefinite and withdrawal of the rejection is respectfully requested.

Claims 35 and 37-40 were rejected as containing awkward and confusing phrases. The Examiner rejected these claims based on the following phrases: “a low immunity condition effective treating amount of” (claim 35), “a production stimulating effective amount of” (claim 37), “an *in vitro* and *in vivo* production stimulating amount of” (claim 38), “a B-lymphocyte proliferating amount of” (claim 39), and “a condition treating

effective amount of" (claim 40). Applicant notes that claim 38 has been cancelled in favor of new claims 42 and 43. The awkward and confusing phrases in claims 35, 37 and 39-40 have been replaced with the phrase "an effective amount." Applicant submits that these claims, as amended, no longer contain any awkward or confusing phrases. Applicant therefore respectfully requests that the Examiner withdraw these rejections of claims 35, 37 and 39-40.

Claims 38 and 39 were also rejected as vague and indefinite because they were "unclear as to what/who the CVT-E002 is being administered to." Claim 38 has been cancelled and therefore requires no further consideration. Claim 39 has been amended to include the phrase "to the patient." Applicant submits that claim 39 as amended is not vague or indefinite because it clearly indicates to whom the CVT-E002 is being administered. Applicant respectfully requests withdrawal of this rejection to claim 39.

Claim 39 was further rejected for lacking proper antecedent basis for the phrase "the resulting antibody production." Claim 30 has been amended to recite "antibody production resulting from said B-lymphocyte proliferation." Applicant submits that claim 39 as amended has proper antecedent basis and Applicant therefore respectfully requests that the Examiner withdraw this rejection to claim 39.

Claims 36 and 41 were rejected as being dependent on rejected claims (claims 35 and 40, respectively). As claims 35 and 40 are now in condition for allowance, Applicant respectfully requests that the Examiner withdraw the rejections to claims 36 and 41.

#### **Double Patenting Rejections**

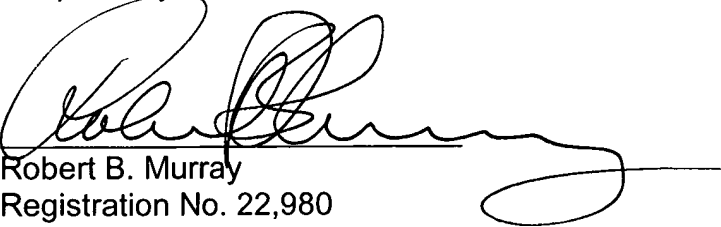
Claim 34 was rejected on the ground of nonstatutory obvious-type double

patenting as being unpatentable over claims 7-9 of US Patent No. 6,423,454. Applicant has included with this amendment a terminal disclaimer in accordance with 37 CFR 1.321. Applicant submits that the terminal disclaimer obviates the nonstatutory obvious-type double patenting rejection. Applicant therefore respectfully requests that the Examiner withdraw the nonstatutory obvious-type double patenting rejection.

The Commissioner is hereby authorized to charge the fee of \$65 for the filing of the terminal disclaimer and fee of \$100 for the additional independent claim to Deposit Account No. 02-2135. A second copy of this page is attached for the Office's convenience.

In light of the foregoing, Applicant submits that all outstanding rejections have been overcome, and the instant application is in condition for allowance. Thus, Applicant respectfully requests early allowance of the instant application. The Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-2135.

Respectfully submitted,

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Attachments  
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